

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF NURSING

In the Matter of Debra K. Bourbonniere,
L.P.N., License No. 26334-2

FINDINGS OF FACT,
CONCLUSIONS,
AND RECOMMENDATION

This matter came on for a Prehearing Conference before Administrative Law Judge Beverly Jones Heydinger at 1:30 p.m. on December 14, 2000, at the offices of the Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota. Monte G. Miller, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101, appeared for the Board. Debra K. Bourbonniere did not appear in person or by counsel. The record closed on the date of the Prehearing Conference.

This report is a recommendation, not a final decision. The Minnesota Board of Nursing will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61 (2000), the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board at the address above to learn the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

1. Is Ms. Bourbonniere unable, or potentially unable, to practice nursing with reasonable skill and safety to patients because of illness, use of alcohol, drugs, chemicals, or as a result of any mental or physical condition?
2. Is the Board justified in taking disciplinary action against Ms. Bourbonniere?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 9, 2000, the Notice of and Order for Prehearing Conference and Hearing in this matter was served by first class mail upon Debra K. Bourbonniere ("Respondent"), 2031 West First Street, Duluth, MN 55806, her last known address on file with the Board of Nursing. It notified the Respondent of the Prehearing Conference scheduled for December 14, 2000. It was returned by the Post Office, stamped "attempted not known".
2. Prior efforts by the Board to locate the Respondent have been unsuccessful.

3. On December 14, 2000, the Respondent failed to appear at the Prehearing Conference, or to notify the Board or the Administrative Law Judge that she was unable to appear.

4. The Notice of and Order for Prehearing Conference and Hearing informed Respondent that if she failed to appear at the Prehearing Conference the allegations against her, set forth in the Notice of and Order for Prehearing Conference and Hearing, could be taken as true, and a default order could be issued. She was informed that such an order could result in disciplinary action, including loss of license.

5. Because Respondent failed to appear, she is in default.

6. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261 and 214.103 (2000).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The facts set out in the Notice of and Order for Prehearing conference and Hearing constitute violations of Minn. Stat. § 148.261, subd. 1(9)(2000). The statute provides that disciplinary action may be taken for the following reasons:

Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

4. Respondent's conduct constitutes grounds for the Board to take disciplinary action against her.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Board take disciplinary action against Debra K. Bourbonniere, L.P.N.

Dated this 11th day of January, 2001.

S/ Beverly Jones Heydinger

BEVERLY JONES HEYDINGER
Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1 (2000), the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

MEMORANDUM

The Respondent did not appear at the hearing to refute the allegations against her, nor did she contact the Board or the Administrative Law Judge to ask for a continuance of this matter. She did not maintain a current address with the Board. The facts alleged by the Board are taken as true. Absent any evidence to the contrary, the facts reasonably support the conclusions.

BJH